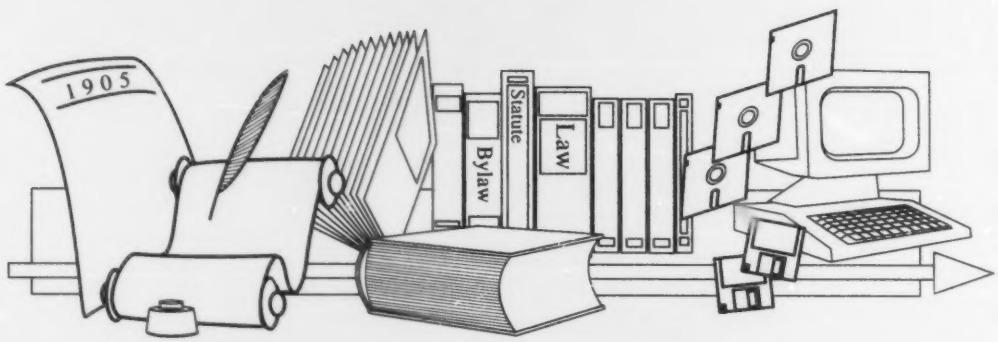
Property Taxation System in Alberta

A Property Assessment Act for the 21st century



Alberta

Municipal Statutes Review Committee

August 1991

92-00075/

Alberta
MUNICIPAL AFFAIRS
Municipal Administrative
Services Division

17th Floor, CityCentre, 10155 - 102 Street, Edmonton, Alberta, Canada T5J 4L4 403/427-8861 Fax: 403/420-1016

August 15, 1991

Honourable Raymond A. Speaker
Minister of Municipal Affairs
Room 127, Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

On behalf of the members, I have the honour to submit to you the recommendation of the Municipal Statutes Review Committee for a new Property Assessment Act for Alberta.

The recommended Act contains changes in policy and drafting style which the Committee believes are necessary in order to carry out its mandate to "recommend legislation appropriate to carry Alberta municipalities into the 21st century".

This report begins with an introductory section summarizing the observations of the Committee which influenced its recommendations. The remainder is the Committee's draft of a new Property Assessment Act.

The Committee has appreciated the advice received from Alberta municipalities, government departments and interested groups and individuals, all of which greatly assisted in the preparation of this report.

Respectfully submitted,

Glen Clegg, M.L.A.
Chairman

COMMITTEE MEMBERSHIP

Ty Lund, M.L.A., Vice-Chairman

Bob Matheson, Edmonton

Ross Alger, Calgary

Eric Musgreave, Calgary

Councillor Gary Browning, Devon

Councillor Dick Papworth
County of Lethbridge

Alderman Ken Kozak, Edmonton

Councillor Laverne Sorgaard
County of Grande Prairie

Frank Lambright, Tangent

Alderman Craig Reid, Calgary

ACKNOWLEDGEMENTS

The Committee wishes to express its appreciation to the thousands of municipal and provincial officials, organization representatives and individuals who read the discussion papers and took part in preparing considered comments and advice.

The creative insight of Mr. David Elliott, Barrister and Solicitor, who served as Legislative Planner for the Committee, and the knowledge and experience of Mr. Rene Gagne, Assistant Deputy Minister, Assessment Services Division, Alberta Municipal Affairs, were key resources to the Committee in preparing this draft.

The continuing support of the Secretariat (Tom Forgrave, Coordinator; Norm Milke, Deputy Coordinator; Margaret Suelzle, Secretary) enables the Committee to function effectively.

INTRODUCTION

The Process

When the Municipal Statutes Review Committee began its work, the members sought to engage all interested Albertans in a public consultation on municipal government. The process used by the Committee involved the distribution of more than 3000 copies of discussion papers, receipt of comments, revision of proposals and eventually the submission of a report to the Minister of Municipal Affairs.

The Committee began its work by using the discussion paper process to develop a recommended statement of municipal policy. In the course of this, a June, 1988, discussion paper, "How Should Municipalities Be Financed" first raised an number of questions related to property assessment in Alberta. The questions included whether assessment should be based on 100% of market value and whether Alberta should consider establishing a central Assessment Authority.

Response to these questions indicated considerable interest in pursuing both ideas further. Thus the second draft of the finance discussion paper proposed that both ideas should be implemented for Alberta. This work was put on hold while the Committee focussed its attention on developing a new Municipal Government Act.

In October, 1990, the Committee published a Special Issue paper on assessment in which it reported its conclusion that

> "the people and municipal governments of Alberta would be best served if a market value approach to assessment was used by a central assessment administration, referred to as an assessment authority."

Respondents were invited to comment on the Committee's conclusion.

In April, 1991, the Committee published Legislation Papers providing discussion drafts of a "Property Assessment Act" and an "Alberta Municipal Assessment Corporation Act".

Concerns have been expressed to the Committee regarding both the concept and the details of the proposed assessment corporation. Therefore the Committee has decided to issue a second discussion paper on this concept. It is expected that the discussion paper will be distributed in September, 1991, and that the Committee will report to the Minister by the end of the year.

A variety of detailed comments has been received regarding the "Property Assessment Act" but there has been general support for the concepts proposed. The Committee, therefore, is prepared to report to the Minister on this Act. The draft has been prepared without reference to an assessment corporation but is written in such a style

that the central authority may be re-inserted easily if that is the final decision.

The recommended Municipal Government Act includes the budget and taxation provisions of the existing Municipal Taxation Act. Because of the style of drafting the Municipal Taxation Act it is not possible to make amendments to simply repeal these provisions and leave the assessment portions of that Act in place. Therefore, the proposed new assessment legislation must proceed concurrently with the new Municipal Government Act.

Environmental Scan

Early in its work the Committee noted a general acceptance that property taxation is an appropriate source of revenue for municipalities. There certainly has been growing concern expressed about the increasing burden of property taxation, particularly for support of the K-12 education system. However, the general public is concerned not only about the level of property taxes but also about the property taxation system.

In its 1989 series of public forums the Committee became convinced that the systemic concerns largely arose from a lack of understanding, even among municipal elected officials and certainly among the general public, of what a "mill rate" means and of how to relate the assessment of your property to what you think it is worth.

In the recommended Municipal Government Act the Committee intentionally avoided using the term "mill rate", referring instead to the "tax rate". The Committee thought this would allow municipalities to express the tax rate as a percentage of the assessment, for example, which many people told the Committee they would find more understandable.

Perhaps more importantly, however, most people could not relate their assessment to the value of their property. They could not understand why Edmonton construction values would be used to determine the value of a house in Medicine Hat. They could understand the use of depreciation related to the age of a house but they couldn't understand how that affected its value. They also could not understand why 65% of the assessed value would be used to arrive at an assessment. Making that calculation seemed almost a waste of time and resources in the views of many people.

In line with the suggestion of several people, the Committee concluded that most of these misunderstandings could be overcome by basing the assessment on market value. The Committee is aware that there is a fairly direct correlation between the existing assessments (factored to 100%) and market value for most properties. However, the straightforward use of market seems to be acceptable to most people and also provides a reliable standard for the work of assessors.

The Committee appreciates the need to make special provision for some special types of properties. Farmland in the hands of a farmer needs to be assessed at its value for farming purposes. The existing system based on productive value seems adequate for this purpose. Some properties do not have a readily discernible market value (a refinery, for example) and so there will have to be a "manual" to guide assessors in valuing these properties. But for most properties, there are procedures available to determine market value with reasonable accuracy as the basis for a property taxation system for Alberta.

Therefore this draft recommends the use of market value, subject to the exceptions mentioned above.

Many transitional issues need to be addressed in the shift from the manual based system to a market value system. Special regulation making powers are proposed for this purpose.

The Committee is proposing to change the names of the two existing bodies which deal with complaints or appeals against assessments. The "Court of Revision" is proposed to be called the "Board of Revision" (since it is not a "court" as that term is normally understood). The "Alberta Assessment Appeal Board" is proposed to be called the "Valuation Appeal Commission" both to avoid the confusion of having two "boards" in the system and because a commission would normally be considered senior to a "board". With relatively minor modifications the functions of the two bodies are proposed to be the same as under the existing legislation.

The Committee has attempted to simplify and demystify the language of the assessment legislation to increase its understandability by taxpayers and elected officials alike. In the course of the drafting there have been numerous minor changes proposed which the Committee expects will make the property valuation system more effective and efficient.

The Committee hopes that the discussion of the property taxation system has been as much of a learning experience for those who have participated in the consultation process as it has been for the members.

RECOMMENDED
PROPERTY ASSESSMENT ACT

August 1991

RECOMMENDED
PROPERTY ASSESSMENT ACT

Contents

Section #

1 Purpose

PART 1
THE VALUATION OF PROPERTY

Division 1
Liability of property to valuation and the valuation standard to be used

2 What property is liable to valuation?
3 What is the valuation standard?
4 Property to be valued and the assessed owner of it

Division 2
Supplementary valuation of land and improvements

5 Resolution requesting supplementary valuation
6 Liability of land and improvements to supplementary valuation

Division 3
Property valuation rolls and supplementary valuation rolls

7 Delivery of rolls to municipality
8 Contents of rolls
9 Amendments to property valuation roll
10 Amendments to supplementary valuation roll

Division 4
Regulation of market value and classification of property

11 Regulating market value standards
12 Property valuation classification system
13 Valuation by Provincial assessors

PART 2
VALUATION NOTICES, COMPLAINTS, AND APPEALS

14 Definition

Section #

Division 1
Valuation and supplementary valuation notices

15 When must you get a valuation or supplementary valuation notice?
16 Purchasers to give mailing address to the municipality
17 Valuation notices to purchasers
18 What information must be shown on the valuation notice?

Division 2
Your rights as an assessed owner

19 What happens if you do not get a valuation notice or you get the wrong one?
20 Access to your valuation record
21 Right to see the valuation record of other people's property
22 The complaint and appeal process summarized

Complaints about valuations

23 What can you file a complaint about?
24 When can a municipality file a complaint, and about what?
25 How do you file a complaint?
26 How do municipalities file a complaint?
27 Time for hearing
28 What happens if you or others are not at the hearing?
29 Written notice of the decision
30 Board of revision decisions

Appeals about valuations

31 Appeals to the Assessment Appeal Commission
32 Time for hearing
33 What happens if you or others are not at the hearing?
34 What kinds of decision can the Assessment Appeal Commission make?

Complaints and appeals from supplementary property valuations

35 Complaints and appeals from supplementary property valuations

Section
#

PART 3
BOARDS OF REVISION AND ASSESSMENT APPEAL COMMISSION

Division 1
Boards of revision

36 Boards of revision established
37 Ministerial directions or appointments
38 Clerk of the board of revision
39 Disqualification of members
40 Members unable to attend
41 Sufficient hearings must be held
42 Quorum of board of revision
43 Decision making

Division 2
Alberta Assessment Appeal Commission

44 Establishment
45 Sittings of Commission
46 Acting member
47 Presiding officer
48 Vacancy
49 Special inquiries
50 Alternative methods of dispute resolution
51 Fees for complaints, appeals and interventions
52 Rules of procedure
53 Staff
54 Secretary to the Commission
55 Fee for copies
56 Report
57 Funding the Assessment Appeal Commission

Division 3
Procedural and evidentiary matters common to boards of revision and the Assessment Appeal Commission

58 Onus of justifying assessed values
59 Evidence
60 Evidence may be under oath or affirmation
61 Notice to attend or produce
62 Protection of witnesses
63 Costs
64 Technical irregularities
65 Copies of documents as admissible evidence
66 Immunity

PART 4
BUSINESS ASSESSMENTS

67 Liability of businesses to assessment under bylaws
68 Business assessment bylaws
69 Contents of assessment and supplementary assessment rolls
70 Application of Part 2

PART 5
AUTHORITY OF ASSESSORS

71 Powers of assessors
72 Power to request information
73 Court authorized inspections and enforcement
74 Information from Government sources
75 Information held by assessors

PART 6
OFFENCES AND PENALTIES AND TECHNICAL MATTERS

Division 1
Offences and penalties

76 Failure to give information
77 Fraud
78 Valuations or assessments based on concealment or failure to disclose

Division 2

Technical matters

79 Form of rolls
80 Correction of valuation and assessment notices
81 Property valuation rolls open for inspection
82 Severability
83 Proof of documents and service

PART 7
TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Division 1
Transitional provisions

84 Regulation of assessed values under former Acts
85 First valuation under this Act
86 Successor to Alberta Assessment Appeal Board
87 Existing appeals
88 Existing complaints

Section
#

Division 2
Consequential amendments

89 Repeal
90 Coming into force

SCHEDULE 1
Property that is exempt from valuation and assessment

Exemptions

SCHEDULE 2
Specially defined words

Definitions

Before you read on

The following list gives a summary overview of the special meaning of some of the words in this Act. For a complete list, and the technical definitions, please look at Schedule 2 of the Act.

"***business***" in addition to its ordinary sense includes professions, occupations, employment, or any activity providing goods or services, whether or not for profit;

"***farm property***" includes farmland (over 1 acre in size) used for growing trees, shrubs, or sod for sale; producing crops, livestock, pheasants, or poultry; fur production; or bee keeping;

"***improvements***" is a long definition which includes buildings, other structures, and certain mobile homes, and most other things that form part of an operational unit designed for or used in various business/commercial/industrial processes or activities;

"***linear property***" includes both the legal interest and the physical property associated with such things as public utilities, pipelines and transmission lines, railway lines and communication systems;

"***municipality***" includes virtually all forms of municipal government in Alberta;

"***parcel of land***" is land shown on a certificate of title or condominium plan or area leased or granted by the Alberta or Federal Crown;

"***property***" has a very wide meaning including both land and the improvements on it (including farm property) and also includes linear property.

RECOMMENDED PROPERTY ASSESSMENT ACT

1 Purpose

The purpose of this Act is to establish a means to provide,

(a) on a Province-wide basis, uniform and equitable values for property, both within municipalities and between municipalities,

(b) equitable values for business assessments, and

(c) a reasonable opportunity for complaints and appeals to be made about property valuations and business assessments.

PART 1
THE VALUATION OF PROPERTY

Division 1
Liability of property to valuation and the valuation standard to be used

2 What property is liable to valuation?

(1) All property in a municipality is liable to valuation in accordance with this Part and the regulations, unless the property is exempt from valuation under Schedule 1.

(2) Property is not to be valued if it is exempt from valuation.

3 What is the valuation standard?

(1) In accordance with the purposes of this Act, market value is,

(a) for farm property, the productive value of the property as farm property for farming operations;

(b) for property described in the regulations, the market value determined in accordance with the regulations;

(c) for all other property, the value of the property based on the most probable amount of money that it should bring if it were sold in a competitive and open market.[1]

(2) Each calendar year, an assessor must value property that is liable to valuation on the following basis:

(a) using available information and professional judgment, the assessor is to anticipate what condition the property will be in on December 31 of that year, and

(b) using the anticipated condition of the property, give it a market value as of July 1 of that year.

(3) An assessor may value several parcels of land and the improvements on them as one property, or may value parts of parcels and the improvements on them separately, in order to obtain a market value of property.

(4) A valuation of property gives the property an assessed value.

4 Property to be valued and the assessed owner of it

Each of the following properties is to be separately valued and recorded on a property valuation roll (and supplementary valuation roll if necessary) in the name of the person described:

(a) land and improvements owned by the Crown in right of Canada or the Crown in right of Alberta that is leased, licensed or held under permit from either Crown, recorded in the name of the person who occupies the land and improvements under the lease, license or permit;

(b) land and improvements owned by a municipality that is leased, licensed or held under permit from the municipality, recorded in the name of the person who occupies the land and improvements under

1 Regulations can provide that the property described in section 4(f) is an exception to the general rule.

the lease, licence or permit;

(c) a well site under a lease, license or permit from the Crown in right of Alberta, recorded in the name of the occupier under the lease, license or permit;

(d) land and improvements occupied under a right of entry order under the *Surface Rights Act*, recorded in the name of the occupier under the order;

(e) improvements on land used, intended to be used or capable of being used for the purpose of

(i) working any mines or minerals in or under that land, or in or under land in the vicinity,

(ii) drilling for oil, salt or natural gas, or

(iii) operating a well for oil, salt or natural gas,

recorded in the name of the occupier of the improvements under a lease, licence or permit from the owner of the land or a part of the surface of the land;

(f) when a person occupies any part of the surface of a parcel of land under a lease, licence or permit from the owner of the parcel for any of the purposes specified in clause (e),

(i) if the lease, licence or permit is held of the Crown, the leasehold interest in the land so occupied by that person is to be valued, and recorded in the name of that person as if the person were the owner of the land, or

(ii) if the lease, licence or permit is not held of the Crown, the land so occupied by that person must be valued, and recorded in the name of the owner of the parcel determined under clause (l),

(g) linear property that is a pipeline or transmission line, recorded in the name of the person occupying or operating the pipeline or transmission line;

(h) linear property that is a line for telecommunications or a system, as the words "***telecommunication***" and "***system***" are defined in the *Telecommunications Act*,[2] [3] recorded in the name of the owner of the line;

(i) linear property which is a railway that is leased, recorded in the name of the lessee of the railway;

(j) improvements that are a spur track or railway siding under a lease or siding agreement from a railway company, recorded in the name of the occupier of the improvements;

(k) land and improvements owned by the Board of Directors of an Irrigation District that is leased exclusively for residential or recreational purposes, or both, recorded in the name of the lessee of the land and improvements;

(l) all other property, recorded in the name of the owner of the property being

(i) in respect of land and improvements, the person who is registered under the *Land Titles Act* as the registered owner of the parcel, and

(ii) in respect of other property, the person in lawful possession of it.

2 "telecommunication" is defined in the *Telecommunications Act* as follows:

"telecommunication" means any transmission, emission or reception of signs, signals, writings, images, sounds, data, message or intelligence of any nature by wire, radiocommunication, cable, waves or any electronic, electromagnetic or optical means but does not include the transmission, emission or reception of broadcasting that is a radiocommunication in which the transmissions are intended for direct reception by the general public.

3 "system" is defined in the *Telecommunication Act* as follows:

"system" means a telecommunication system and includes all land, plant, supplies, buildings, works, rights, franchises, easements, assets and property of every kind owned, held, required or used for the purpose of, or in connection with, or for the operation of the telecommunication system;

Division 2
Supplementary valuation of land and improvements

5 Resolution requesting supplementary valuation

(1) This Division does not apply unless

(a) a council passes a resolution before May 1 in a calendar year authorizing a supplementary valuation to be undertaken, or

(b) a resolution passed for a supplementary valuation remains in effect under subsection (2).

(2) A resolution for a supplementary valuation remains in effect from year to year until it is rescinded.

6 Liability of land and improvements to supplementary valuation

(1) The following is liable to supplementary valuation:

(a) improvements completed or partly completed in the taxation year that were not previously valued,

(b) improvements moved into the municipality in the taxation year, and

(c) land and improvements that ceased to be exempt from valuation in the taxation year.

(2) In this section and section 7 "taxation year" means the calendar year in which an assessor actually makes a supplementary valuation.

Division 3
Property valuation rolls and supplementary valuation rolls

7 Delivery of rolls to municipality

(1) Immediately after December 31 every year a municipality must prepare a property valuation roll for property in the municipality.

(2) A municipality must prepare a supplementary valuation roll as soon as practicable after a supplementary valuation in the municipality is complete.

8 Contents of rolls

(1) Each property valuation roll must show, for each property,

(a) a legal description of the assessed property, or if there is no legal description, a description sufficient to identify or locate it;

(b) the name and mailing address of the assessed owner, being the person described in section 4;

(c) the assessed value of parcels of land with the improvements on them, unless clause (d) applies;

(d) when required by section 4, or by the regulations, separate valuations for land, improvements, and linear property;

(e) whether the assessed owner is a public school supporter or a separate school supporter;

(f) whether the assessed property is exempt from valuation under this Act or exempt from a property tax bylaw under the recommended *Municipal Government Act*;

(g) if necessary, the type, classification or subclassification into which, in the opinion of an assessor, the assessed property falls, determined in accordance with the applicable property classification

bylaw.[4]

(2) A supplementary valuation roll must show

(a) the same information that is required to be shown on a property valuation roll, and

(b) the date on which

(i) an improvement was completed, occupied, or moved into the municipality, or

(ii) land and improvements ceased to be exempt from valuation under this Act,

and that forms the basis for determining liability to property tax under section 244 of the recommended *Municipal Government Act*.

9 Amendments to property valuation roll

(1) A municipality may, at any time of the year, amend its property valuation roll to

(a) correct errors and omissions and revise the roll to update or correct information, and

(b) conform with decisions of boards of revision, the Assessment Appeal Commission, and the courts.[5]

(2) The property valuation roll prepared under section 7(1), as amended by the changes referred to in subsection (1) of this section, and as it may be further amended by a later decision of a court, is the property valuation roll of the municipality.

(3) It is the property valuation roll described in subsection (2), upon which a property tax bylaw may impose a tax rate to establish a property tax

4 For bylaws adopting a property valuation classification system see section 12.

5 Section 80 requires the assessed owner to be notified of the changes and protects complaint/appeal rights.

under the recommended *Municipal Government Act*.

10 Amendments to supplementary valuation roll

(1) A municipality may, at any time of the year, amend its supplementary property valuation roll to

(a) correct errors and omissions, and revise the roll to update or correct information, and

(b) conform with decisions of boards of revision, the Assessment Appeal Commission, and the courts.[6]

(2) The supplementary valuation roll prepared under section 7(2), as amended by the changes referred to in subsection (1) of this section, and as it may be further amended by a later decision of a court, is the supplementary valuation roll of the municipality.

(3) It is the supplementary valuation roll described in subsection (2), upon which a supplementary property tax bylaw may impose a tax rate to establish a supplementary property tax under the recommended *Municipal Government Act*.

Division 4
Regulation of market value
and classification of property

11 Regulating market value standards

(1) The Minister may make regulations

(a) describing the types or categories of property or part of property for which a market value prescribed by regulation is to be used to value property;

(b) defining "market value" for all or any of types or categories of

6 Section 80 requires the assessed owner to be notified of changes and protects complaint/appeal rights.

property described by regulations under clause (a);

(c) describing parcels or parts of parcels of land that must be valued or must not be valued as farmland for the purposes of this Act and the regulations;

(d) exempting machinery or equipment from the definition of "improvements"[7];

(e) limiting the value to be placed on property described in section 4(e) to not more than the valuation of farm property adjacent to the land described in section 4(f).

(2) The Minister may make regulations

(a) establishing

(i) one or more methods or systems of classification of property or businesses, or both, or

(ii) particular types, classifications or subclassifications of property or businesses,

or both, for adoption by municipalities;[8]

(b) respecting the methods or means by which businesses are to be assessed for the purposes of Part 4 in order to establish a business assessment base on which to impose business taxes under the recommended *Municipal Government Act*;

(c) respecting any matter the Minister considers necessary in the performance of valuations or assessments under this Act, the functions of assessors in conducting valuations or assessments, or related matters.

7 "improvements" is defined in Schedule 2.

8 Part 4 of the Act deals with business assessment bylaws and provides for adopting of the business classification systems.

(3) The Minister may make regulations

(a) governing the release of information contained in valuation and business assessment records, or part of them, that are required by a person to prepare for a hearing under this Act, and imposing conditions on the release of information;

(b) governing when valuation or business assessment records are not to be released without a notice to do so by a board of revision or the Assessment Appeal Commission.

12 Property valuation classification system

A council may pass bylaws adopting as the property valuation classification system for the municipality

(a) one or more methods or systems of classification of property established by regulations made under section 11(2), or

(b) particular types, classifications or subclassifications of property established by the regulations.

13 Valuation by Provincial assessors

Linear property must be valued on a province-wide basis only by those assessors designated for that purpose by the Minister.

PART 2

VALUATION NOTICES, COMPLAINTS, AND APPEALS

14 Definition

In this Part "you" means you, the assessed owner.[9]

Division 1
Valuation and supplementary valuation notices

15 When must you get a valuation or supplementary valuation notice?

(1) On or before the date in the calendar year when it mails the tax notice under the recommended *Municipal Government Act*, every municipality must

(a) prepare a valuation notice for every assessed property shown on a property valuation roll, and

(b) mail the valuation notice to you.

(2) As soon as practicable after a supplementary valuation roll has been delivered to a municipality, the municipality must

(a) prepare a supplementary valuation notice for every assessed property shown on the supplementary valuation roll, and

(b) mail the supplementary valuation notice to you.

(3) If the mailing address of an assessed owner is unknown

(a) a copy of the valuation notice or supplementary valuation notice must be mailed to the property to which the notice relates, or

9 The "assessed owner" is usually the owner of property. In some special circumstances (described in section 4) the "assessed owner" is not the owner of property but the lessee or occupier of it.

(b) if there is no mailing address, the valuation notice or supplementary valuation notice must be retained by the municipality and is deemed to have been mailed to the assessed owner.

16 Purchasers to give mailing address to the municipality

A purchaser of property must give the municipality a mailing address to which notices under this Act and the recommended *Municipal Government Act* are to be sent.

17 Valuation notices to purchasers

(1) A valuation notice must be mailed to a purchaser of assessed property if the municipality receives notice in writing, in a form prescribed by it, requesting that valuation notices be mailed to the new owner.

(2) The new owner, with the consent of the former assessed owner, may take over any complaint or appeal made by the former assessed owner under this Act.

18 What information must be shown on the valuation notice?

A valuation notice for assessed property must include

(a) the same information that is on the property valuation roll,[10]

(b) the date the valuation notice is mailed to the assessed owner,

(c) when and where the property valuation roll can be inspected,

(d) to whom and how a complaint can be filed about the assessed value of property, and any other information considered appropriate, and

(e) the date by which the complaint must be made.

10 See section 8.

Division 2
Your rights as an assessed owner

19 What happens if you do not get a valuation notice or you get the wrong one?

(1) If you do not get a valuation notice or you get someone else's notice you (or someone acting for you) may give the municipality the reasons why your name or someone else's name should be on the valuation notice.

(2) If it is satisfied with the reasons you give, the municipality must enter the correct name and the date of the change on a new valuation notice and mail it to you.

20 Access to your valuation record

A municipality must comply with a request made by you to let you (or someone acting for you) see or give you a copy of the valuation record of the assessed value of your property, if you make the request in the form required by the municipality.

21 Right to see the valuation record of other people's property

(1) You may ask your municipality, in the manner required by it, to let you (or someone acting for you) see or give you a copy of the valuation record of the assessed value of property for which you are <u>not</u> the assessed owner, but only if you need that information to file a complaint about, or appeal, an assessed value.

(2) A municipality must comply with your request under subsection (1) (or part of it) if it is satisfied that

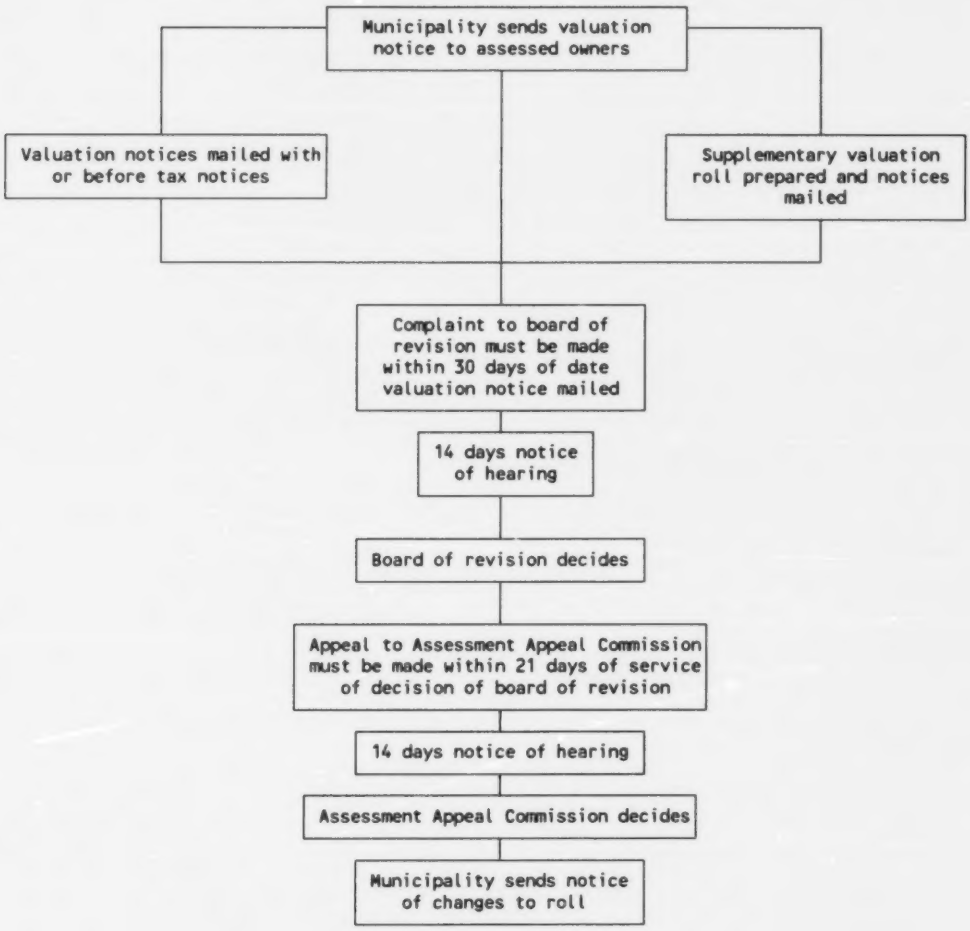
(a) your request is genuine,

(b) necessary confidentiality will not be breached, and

(c) the release of the information otherwise complies with the regulations made under section 11(3).

22 The complaint and appeal process summarized

This chart summarizes the complaint and appeal process for valuations and supplementary valuations that is described in detail in the following sections


Municipality sends valuation notice to assessed owners
Valuation notices mailed with or before tax notices
Supplementary valuation roll prepared and notices mailed
Complaint to board of revision must be made within 30 days of date valuation notice mailed
14 days notice of hearing
Board of revision decides
Appeal to Assessment Appeal Commission must be made within 21 days of service of decision of board of revision
14 days notice of hearing
Assessment Appeal Commission decides
Municipality sends notice of changes to roll

Complaints about valuations

23 What can you file a complaint about?

You can file a complaint with a board of revision about the assessed value of your property or about anything else on or omitted from a valuation notice.

24 When can a municipality file a complaint, and about what?

(1) A municipality can file a complaint with a board of revision about the assessed value of property in the municipality or about anything else on or omitted from a property valuation roll or valuation notice.

(2) One municipality can also file a complaint with a board of revision about all or any of the assessed values of property in another municipality.

25 How do you file a complaint?

(1) You can make your complaint by writing to a board of revision within 30 days from the date the valuation notice is mailed to you.

(2) You must

(a) give details of your complaint and your reasons for it, and

(b) the address where you can be contacted and to which notices can be sent.

(3) You lose your right to file a complaint if you do not do so within the required period.

26 How do municipalities file a complaint?

(1) A municipality makes its complaint by writing to the board of revision

within 30 days from the date on which the last valuation notice is mailed to an assessed owner in the municipality under section 15.

(2) The municipality must give details of the complaint and reasons for it, and the name of a designated officer of the municipality to whom notices can be sent.

(3) A municipality loses its right to file a complaint if it does not do so within the required period.

27 Time for hearing

(1) If a board of revision receives a written complaint in time, it must send you, the municipality, and every person it considers to be directly affected by the complaint, a notice of the date, time and the place at which the board of revision will listen to the complaint.

(2) Hearing notices must be sent out on behalf of the board of revision at least 14 days before the date the board of revision will listen to the complaint.

28 What happens if you or others are not at the hearing?

If you, a municipality, or anyone who is given notice about a board of revision hearing, do not attend the hearing, the board of revision may still hold the hearing if it is satisfied that you and others affected had notice of it.

29 Written notice of the decision

The board of revision must send you, the municipality, and everyone else it considers to be directly affected by its decision, written notice of it, with or without reasons.

30 Board of revision decisions

(1) A board of revision may, taking into account the purpose of this Act,

(a) direct the municipality to correct the property valuation roll;

(b) confirm the assessed value;

(c) refer the valuation back to an assessor;

(d) order an assessed value to be changed.

(2) If a board of revision refers a matter back to an assessor a subsequent assessed value can be appealed directly to the Assessment Appeal Commission in accordance with section 31.

Appeals about valuations

31 Appeals to the Assessment Appeal Commission

(1) You, a municipality, or any other person directly affected by a decision of a board of revision, may appeal the decision to the Assessment Appeal Commission.

(2) Written notice stating the reasons for the appeal must be received by the Commission within 21 days following the date the decision of the board of revision is served on the appellant.

32 Time for hearing

(1) If the Assessment Appeal Commission receives a written appeal in time, it must send a copy of the notice of appeal, and a notice of the time, date and place at which the appeal will be heard, to you, the municipality, and every person it considers to be directly affected by the appeal.

(2) Hearing notices must be sent out at least 14 days before the date of the hearing.

33 What happens if you or others are not at the hearing?

(1) If you or anyone else given notice about the appeal is not at the hearing the Assessment Appeal Commission may still hold the hearing if it is satisfied you and others affected had notice of it.

(2) The Assessment Appeal Commission must send you, the municipality, and any other person it considers to be directly affected by its decision, written notice of it, with or without reasons, unless subsection (3) applies.

(3) The Assessment Appeal Commission must give reasons for its decision if any person directly affected by the appeal asks for reasons either before or within 14 days of receiving the Commission's decision.

34 What kinds of decision can the Assessment Appeal Commission make?

(1) The Assessment Appeal Commission must give its decision in writing to the persons directly affected by the appeal and may, taking into account the purpose of this Act,

(a) direct the municipality to correct the property valuation roll;

(b) confirm the assessed value;

(c) refer the valuation back to an assessor;

(d) order an assessed value to be changed;

(e) specify the year or years for which the new valuation is to be used for taxation purposes by the municipality.

(2) If the Commission refers a matter back to an assessor a subsequent assessed value may be appealed directly to the Commission in accordance with section 31.

Complaints and appeals from supplementary property valuations

35 Complaints and appeals from supplementary property valuations

Sections 22 to 34 apply to complaints and appeals about supplementary property valuations and to assessed owners, municipalities, assessors and supplementary valuation notices, with the necessary changes.

PART 3

BOARDS OF REVISION AND ASSESSMENT APPEAL COMMISSION

Division 1
Boards of revision

36 Boards of revision established

(1) A council must

(a) establish one or more boards of revision,

(b) prescribe the number of members of each board,

(c) prescribe the terms of office of the persons appointed to each board, and the manner in which vacancies are to be filled, and

(d) prescribe the remuneration or fees, and the expenses payable to, the members of a board.

(2) Each board of revision is to be composed of residents of the municipality but must not include councillors or employees of the municipality.

(3) The council may decide who is chair of a board of revision, but if it does not, the members of the board must do so.

(4) Two or more councils may enter into an agreement establishing one or more boards of revision to have jurisdiction in their municipalities.

37 Ministerial directions or appointments

If a council does not appoint a board of revision, the Minister may

(a) direct the council to appoint a board, or

(b) appoint persons to serve as a board of revision for the municipality.

38 Clerk of the board of revision

(1) A council must provide for the appointment of a clerk for the board or boards of revision.

(2) If a clerk is not appointed, the chief administrative officer of the municipality, or a designated officer, must perform the clerk's duties and responsibilities.

39 Disqualification of members

No member of a board of revision can hear a complaint about any property in which the member has a pecuniary interest as described in section 113 of the recommended *Municipal Government Act*.

40 Members unable to attend

If a majority of the members of a board of revision are unable to attend a hearing, the chief elected official of the municipality may appoint other persons to the board of revision to act in place of the absent members for that hearing.

41 Sufficient hearings must be held

A council must provide for sufficient hearings of boards of revision to deal with all complaints under Part 2 and Part 4.

42 Quorum of board of revision

A majority of the members of a board of revision constitutes a quorum.

43 Decision making

(1) A decision of a majority of the members of a board of revision is its decision.

(2) If the appointment of a member of a board of revision ends, the member may complete the duties or responsibilities that the person has as a member of the board, and continues to have all the powers, duties and immunity of a member until the proceeding is over.

Division 2
Alberta Assessment Appeal Commission

44 Establishment

(1) The Alberta Assessment Appeal Commission is established composed of those persons appointed by the Lieutenant Governor in Council who are to be paid the remuneration, fees or expenses that the Lieutenant Governor in Council prescribes.

(2) Members of the Commission hold office during pleasure.

(3) The Lieutenant Governor in Council must designate one of the members as presiding officer of the Commission.

(4) The presiding officer must be a full-time member of the Commission and the other members must devote as much of their time to their office as may be prescribed by the Minister.

45 Sittings of Commission

(1) The presiding officer may divide the Assessment Appeal Commission into 2 or more divisions.

(2) The Commission may sit as the Commission, or as one or more divisions of the Commission.

(3) A division of the Commission has the jurisdiction, powers and duties of the Commission.

(4) A decision or other action of the Commission made or taken during a meeting of the Commission or a division of the Commission at which a quorum is present is the decision or action of the Commission, and binds

all members of the Commission.

(5) The presiding officer may designate a member to preside at any sitting of the Commission, or a division of the Commission, at which the presiding officer is not present.

46 Acting member

(1) The Minister may appoint a person to act as a member of the Assessment Appeal Commission while any other member of the Commission is unable to perform their duties, and may also prescribe the duties, term of appointment and remuneration of the acting member.

(2) A person appointed under this section is a member of the Commission for all purposes.

47 Presiding officer

The presiding officer is the chief executive officer of the Assessment Appeal Commission and must call all meetings of the Commission and of divisions of the Commission.

48 Vacancy

During a vacancy in the membership of the Assessment Appeal Commission the remaining members have and may exercise the jurisdiction, powers, and duties of the Commission.

49 Special inquiries

(1) The Assessment Appeal Commission may authorize a person

(a) to prepare a report or conduct an inquiry for the use of the Commission, and

(b) authorize that person to enter property, a business, or inspect anything needed to be inspected for the report or inquiry.

(2) A person authorized under subsection (1) has the same powers and duties as an assessor under this Act.

50 Alternative methods of dispute resolution

(1) The Assessment Appeal Commission may establish or provide for the establishment of any means of dispute resolution that it considers appropriate, including mediation, conciliation and arbitration processes to deal with any issue, complaint or appeal arising under this Act, the regulations or a bylaw.

(2) A dispute in respect of which a person has a right of complaint or appeal under this or any other enactment may not be diverted to another dispute resolution process without the consent of the complainant or appellant, and the other persons directly concerned with the complaint or appeal.

(3) The Commission may agree to appoint one or more of its members to act as arbitrators under the *Arbitration Act*, or to appoint an arbitrator under that Act.

51 Fees for complaints, appeals and interventions

The Assessment Appeal Commission may prescribe the fees to be paid by appellants or other persons involved or seeking to be involved as a party, intervenor or participant in proceedings before the Commission as a condition of commencing proceedings, being a party to, or participating in the proceedings.

52 Rules of procedure

The Assessment Appeal Commission may make or adopt rules of procedure for the conduct of proceedings before it, either generally or for particular hearings.

53 Staff

In accordance with the *Public Service Act*, the Assessment Appeal

Commission may employ or engage any persons it considers necessary.

54 Secretary to the Commission

(1) The presiding officer of the Assessment Appeal Commission must appoint an employee or a member of the Commission as the Secretary to the Commission.

(2) The Secretary must

(a) keep a record of all proceedings conducted before the Commission, a division, or a member of it;

(b) have the custody and care of the records of the Commission;

(c) ensure that every decision of the Commission is prepared in accordance with the directions of the Board, properly authenticated, and filed; and

(d) act in accordance with the Commission's directions.

55 Fee for copies

Any person may, on payment of the fee prescribed by the Assessment Appeal Commission, obtain from the Secretary a certified copy of a decision of the Commission.

56 Report

(1) On or before March 31 each year, the Assessment Appeal Commission must give to the Minister a report for the preceding calendar year, showing its activities for that year.

(2) The Minister must table the Commission's report in the Legislative Assembly if it is then sitting or, if it is not sitting, within 15 days after the next sitting starts.

57 Funding the Assessment Appeal Commission

Expenditures related to the Assessment Appeal Commission and its members and staff must be paid from money appropriated by the Legislature for that purpose.

Division 3
Procedural and evidentiary matters common to boards of revision and the Assessment Appeal Commission

58 Onus of justifying assessed values

(1) At a board of revision or Assessment Appeal Commission hearing it is up to an assessor to show that the assessed value of property shown on a valuation notice or supplementary valuation notice is correct, unless the assessed owner failed to comply with a request or order under Part 5.

(2) If, in the opinion of the board of revision or Commission, an assessed owner failed to comply with a request or order under Part 5, then it is up to the assessed owner to establish that the assessed value of property is wrong.

59 Evidence

Boards of revision and the Assessment Appeal Commission are not bound by the rules of evidence or any other law applicable to judicial proceedings, and have power to determine the admissibility, relevance and weight of any evidence.

60 Evidence may be under oath or affirmation

(1) Although proceedings before boards of revision and the Assessment Appeal Commission are intended to be as informal as circumstances permit, the board or Commission may require anyone giving evidence to do so under oath.

(2) Members of boards of revision and the Commission are commissioners for oaths while acting in their official capacities.

61 Notice to attend or produce

(1) When in the opinion of a board of revision or the Assessment Appeal Commission

(a) the attendance of a person is required or the attendance of a person to produce a document or other thing is required, or

(b) the production of a document or other thing is required,

the board or Commission may cause to be served on the person concerned a notice to attend or a notice to attend and produce a document or other thing, as the case may be.

(2) If a person fails or refuses to comply with

(a) a notice to attend, or

(b) a notice to attend and produce a document or other thing,

a judge of the Court of Queen's Bench, on application of the board of revision or the Commission may issue a warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing.

62 Protection of witnesses

A witness may be examined under oath on anything relevant to a matter before a board of revision or Assessment Appeal Commission and is not excused from answering any question on the grounds that the answer might tend to

(a) incriminate the witness,

(b) subject the witness to punishment under this or any other Act, or

(c) establish liability of the witness

(i) to a civil proceeding at the instance of the Crown in right of Alberta or of any other person, or

(ii) to prosecution under any Act,

but if the answer so given tends to incriminate the witness, subject the witness to punishment or establish liability of the witness, it must not be used or received against the witness in any civil proceedings or in any other proceedings under this or any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

63 Costs

(1) The costs of and incidental to proceedings before a board of revision or the Assessment Appeal Commission are in the discretion of the board or the Commission.

(2) A board of revision or the Commission may order by whom and to whom any costs are to be paid, and if not determined by it, by whom they are to be determined and allowed.

(3) An order made under this section may be filed in the Court of Queen's Bench and if it is, the order is enforceable in the same manner as if it were an order of the Court.

64 Technical irregularities

(1) No proceeding or decision of a board of revision or the Assessment Appeal Commission is invalid because of

(a) a defect of form,

(b) a technical irregularity, or

(c) informality, if there has been substantial compliance with the requirements of this Act.

(2) A board of revision or the Commission may correct a typographical, clerical or arithmetic error or omission in a decision made by it.

65 Copies of documents as admissible evidence

(1) A decision purporting to be signed by the person who chaired a board of revision or the presiding officer or Secretary of the Assessment Appeal Commission, is admissible in evidence

(a) as the decision and of the contents of the decision, and

(b) that it was properly signed,

without proof of the appointment or signature.

(2) A copy of a decision of a board of revision or the Commission having endorsed on it a certificate purporting to be signed by the clerk of a board of revision or the Secretary of the Commission, which states that the copy is a true copy, is admissible as evidence of the decision and its contents without proof of the appointment or signature of the clerk or of the Secretary.

66 Immunity

The clerk and members of boards of revision, and the Secretary, staff and members of the Assessment Appeal Commission are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty or function under this or any other enactment.

PART 4

BUSINESS ASSESSMENTS

67 Liability of businesses to assessment under bylaws

All businesses are liable to assessment in accordance with a bylaw made under this Part, except for the property exempt from assessment under Schedule 1.

68 Business assessment bylaws

(1) A business assessment bylaw passed by a council

(a) must state the purpose of the assessment;

(b) must state that all businesses are liable to assessment in accordance with the bylaw, or specify the businesses that are to be so assessed;

(c) if the council wishes to classify businesses, the bylaw must adopt one or more of the types or classifications of businesses established by regulations;[11]

(d) may require assessments for all businesses referred to in clause (c), or for particular types or classifications of businesses;

(e) must state which method of assessment, prescribed by regulation under section 11(2), will be used by the municipality in conducting the assessment;[12]

(f) may include any other matters that it considers necessary for the assessment.

(2) A business assessment bylaw has effect from year to year unless the bylaw otherwise provides.

---

11 Classifications can be prescribed under section 11(2)(a).

12 The methods of assessment are established by Ministerial regulations under section 11(2).

69 Contents of assessment and supplementary assessment rolls

(1) A business assessment roll must show, for each business liable to assessment,

(a) the purpose of the assessment;

(b) a description of the assessed business;

(c) the name and address of the owner of the business;

(d) the assessment, being either a value, a unit of measurement or some other form of assessment determined in accordance with the business assessment bylaw;

(e) an indication of whether the assessed business is exempt from business tax;

(f) if necessary, the type or classification into which, in the opinion of an assessor, the assessed business falls, determined in accordance with a type or classification adopted by the business assessment bylaw.

(2) If a supplementary assessment is required, the supplementary assessment roll must show

(a) the same information that is required to be shown on the assessment roll, and

(b) the date for determining the liability of any additional tax that may be imposed as a result of the supplementary assessment.

70 Application of Part 2

Part 2 applies to assessed owners of businesses, municipalities, assessed businesses, business assessment and supplementary business assessment rolls, business assessment records, business assessment notices and supplementary business assessment notices with the necessary changes.

PART 5
AUTHORITY OF ASSESSORS

71 Powers of assessors

(1) At reasonable times an assessor may, for the purposes of making a valuation or assessment under this or another enactment, or determining liability to or exemption from valuation or assessment, and matters related,

(a) enter and inspect property and businesses,

(b) request the owner or occupier to produce records, documents and samples, and

(c) make copies of records and documents, and take samples.

(2) An assessor must produce identification when requested to do so.

72 Power to request information

A person must give an assessor any information requested by the assessor in order for the assessor

(a) to decide whether property or a business is liable to valuation or assessment, or exempt from valuation or assessment, under this Act or another enactment;

(b) to make a valuation or assessment of property or business or to obtain other information required to be included on a roll required or permitted to be prepared under this Act or another enactment.

73 Court authorized inspections and enforcement

(1) An assessor may apply to the Court of Queen's Bench, by originating notice, for an order under subsection (2) if a person

(a) refuses to allow an entry or inspection by the assessor,

(b) refuses to produce anything to assist the entry or inspection,

(c) interferes with the entry or inspection, or

(d) refuses to comply with a request for information.

(2) The Court may make an order

(a) restraining a person from preventing or interfering with an assessor's entry or inspection,

(b) requiring the production to an assessor of anything to assist the entry or inspection, or

(c) requiring compliance with a request for information by an assessor.

(3) A copy of the originating notice and a copy of each affidavit in support must be served at least 3 days before the day named in the notice for hearing the application.

(4) In emergency situations or in extraordinary circumstances the Court may hear the application without notice to any person.

74 Information from Government sources

A Minister, a deputy Minister, an emanation[13] of the Crown, or a municipality must comply with a request of an assessor for information necessary to carry out a valuation or an assessment.

75 Information held by assessors

Information obtained by an assessor as part of a valuation or assessment record under this or another enactment is to be kept confidential unless

(a) it must be produced for the board of revision or the Assessment Appeal Commission;

(b) it can be given out in accordance with this or another enactment, or

(c) it is used or made public in a way which does not identify the specific persons, property or businesses to which the information relates.

13 "emanation" means anything created by the Government like boards and agencies, and Crown corporations.

PART 6
OFFENCES AND PENALTIES AND TECHNICAL MATTERS

Division 1
Offences and penalties

76 Failure to give information

A person who is able to do so, and does not give the information required to be given under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than $5000 and, in default of payment, to imprisonment for not more than 6 months, or to both fine and imprisonment.

77 Fraud

A person who

(a) intentionally makes or records a false valuation or assessment,

(b) intentionally does not make a valuation or assessment,

(c) intentionally causes a name to be inserted on a property valuation notice or roll, business assessment notice or roll, or any supplementary notice or roll that is known to be wrong, or

(d) intentionally omits a name from a property valuation notice or roll, business assessment notice or roll, or any supplementary notice or roll,

is guilty of an offence and liable on summary conviction to a fine not exceeding $10,000 and in default of payment to imprisonment for not more than 6 months, or to both fine and imprisonment.

78 Valuations or assessments based on concealment or failure to disclose

(1) If property or a business that is liable to valuation or assessment in a year

was not valued or assessed, or was under-valued or under-assessed, because of

(a) an assessed owner's intentional failure to disclose information, or

(b) an assessed owner's concealment of particulars relating to the property or business,

an assessor may value or assess the property or business on a special supplementary roll in the manner in which it should have been valued or assessed.

(2) A municipality may impose a tax rate in respect of property or business under subsection (1) retroactively in the same way that it could have imposed the rate if the special supplementary valuation or assessment had been properly made.

Division 2
Technical matters

79 Form of rolls

A valuation roll, business assessment roll and any supplementary roll may be in whatever form council approves, including a form that can be converted into a legible form by a machine or a device, for example language

(a) on microfilm

(b) in electronic, mechanical or magnetic storage, or

(c) in electronic data transmission signals.

80 Correction of valuation and assessment notices

(1) If a municipality corrects an error or omission on a valuation or assessment notice or roll or supplementary notice or roll, the municipality must immediately mail to the person affected an amended valuation or

business notice.[14]

(2) The provisions of this Act relating to the mailing of valuation and assessment notices, and complaints and appeals about valuations and assessments apply, with the necessary changes, to amended valuation and assessment notices.

81 Property valuation rolls open for inspection

Property valuation rolls, assessment rolls and any supplementary rolls are all open to inspection during regular business hours.

82 Severability

The fact that one or more entries on a property valuation roll, business assessment roll or any supplementary roll are wrong does not invalidate other entries on the roll, or the roll itself.

83 Proof of documents and service

(1) A copy of

(a) a property valuation roll or business assessment roll,

(b) any supplementary roll, or

(c) a valuation notice, business assessment notice or any supplementary notice,

certified as a true copy by an assessor is evidence of the existence and validity of the roll or notice.

(2) A statutory declaration by a designated officer of a municipality is sufficient evidence that a valuation notice or a business assessment notice was mailed on the date stated in the declaration.

14 For example, see the ability to make corrections in section 9.

PART 7
TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Division 1
Transitional provisions

84 Regulation of assessed values under former Acts[15]

The Minister may make regulations respecting the assessed values of property and businesses under the former *Municipal Taxation Act* and the former *Electric Power and Pipeline Assessment Act*, including

(a) freezing the assessed values, or deeming them to be market value until this Act is fully effective;

(b) phasing in increases in assessed values either generally or for specific municipalities or types or categories of property, providing for the valuation of physical changes to property during the transitional period prescribed by the Minister;

(c) making such other regulations as are necessary to phase in or implement this Act as the Minister considers necessary.

85 First valuation under this Act

The first valuation under this Act and the regulations must be made effective as of July 1 1995, unless the Minister, by regulation, changes that date either for all of Alberta or parts of it.

86 Successor to Alberta Assessment Appeal Board

(1) The Assessment Appeal Commission is the successor of the Alberta Assessment Appeal Board.

15 Policy decisions about the best way of dealing with transitional issues can best be made when the Government makes other major policy decisions on this Act.

(2) The members of the Alberta Assessment Appeal Board automatically become the members of the Assessment Appeal Commission according to their original terms of appointment.

(3) The chairman of the Alberta Assessment Appeal Board becomes the presiding officer of the Assessment Appeal Commission.

(4) The Secretary and staff of the Alberta Assessment Appeal Board become respectively the Secretary and staff of the Assessment Appeal Commission.

87 Existing appeals

All appeals and other matters being dealt with by the Alberta Assessment Appeal Board when this Act comes into force must continue to be dealt with by the Board until they are concluded, as if this Act had not come into force and the *Alberta Assessment Appeal Board Act* had remained in force.

88 Existing complaints

(1) All complaints to courts of revision under the former *Municipal Taxation Act* when this Act comes into force must be continued to their conclusion by the court of revision as if this Act had not come into force and the *Municipal Taxation Act* had remained in force.

(2) A decision on a complaint referred to in subsection (1) can be appealed to the Alberta Assessment Appeal Board as if

(a) this Act had not come into force and the former *Municipal Taxation Act* and *Alberta Assessment Appeal Board Act* had remained in force, and

(b) the Alberta Assessment Appeal Board has jurisdiction to hear the appeal on that basis.

NOTE TO READER:

1 There are many transitional issues that will be dealt with when the policy questions are settled.

2 The July 1 1995 first valuation date assumes this recommended Act is enacted in 1992.

Division 2
Consequential amendments

Note that the following Acts are proposed for repeal in the recommended Municipal Government Act:

Municipal Taxation Act (repeal but a lot of transitional issues)
Municipal and Provincial Valuation and Grants Act (MGA repeals)
Municipal Tax Exemption Act (MGA repeals)
Electric Power and Pipeline Assessment Act (MGA repeals)
Crown Property Municipal Grants Act (MGA repeals)

Acts potentially affected by this draft:

Alberta Mortgage and Housing Corporation Act
Alberta Research Council Act
Condominium Property Act (amendments required)
Consumer Credit Transactions Act
County Act
Crown Cultivation Leases Act
Crowsnest Pass Municipal Unification Act
Department of Public Works, Supply and Services Act
Drainage Districts Act
Fire Protection Act
Hospitals Act
Irrigation Act ss106-130
Land Titles Act (perhaps)
Libraries Act
Liquor Control Act
Local Authorities Board Act

Local Tax Arrears Consolidation Act
Municipal District of Bighorn No. 8 Incorporation Act
Municipal District of Brazeau No. 77 Incorporation Act
Municipal District of Clearwater No. 99 Incorporation Act
Municipal District of Cypress No. 1 Incorporation Act
New Towns Act
Northeast Alberta Regional Commission Act
Nursing Homes Act
Planning Act
Property Tax Reduction Act
Public Health Act
Public Lands Act
Recreation Development Act
School Act (major issues to be considered)
Special Areas Act
Tax Recovery Act
Telecommunications Act s18 grants to municipalities
Treasury Branches Act
University of Alberta Foundation Act

At least the following Acts will require a review:

- Cemetery Companies Act s23
- The Crown Cultivation Leases Act s2 (exemption from assessment)
- An Act to Exempt from taxation, the Real and Personal property of the Basilian Fathers and the Sisters of Immaculate Conception, Religious Orders, both of Mundare, Alberta, 1947, Ch. 85, s2
- An Act to Exempt from taxation Certain Property Owned by the Norwegian Lutheran Church of Canada at Camrose, Alberta, 1948, Ch. 91, s1
- An Act to Incorporate the Prairie Bible Institute, 1946, Ch. 78, s7
- An Act to amend the Act Incorporating Les Soeurs de Charite de la Providence des Territories du Norde Ouest, 1953, Ch. 125, s2 (s13a of the 1902 Ordinance)
- An Act to amend the Act Incorporating the Roman Catholic Bishop of the Apostolic Vicariate of Athabasca and the Roman Catholic Parishes and Missions in the Apostolic Vicariate of Athabasca, 1954, Ch. 113, s2 (new s7a to Ch. 50 of 1914)
- An Act to Incorporate the Fathers of the Salesian Society of Alberta, 1955, Ch. 82, s12
- An Act to amend the Acts relating to the Canadian Union College, 1951, Ch. 104, s2 (9a of Ch. 35, 1940)
- An Act to Incorporate the Mennonite Educational Society of Alberta, 1951, Ch. 108, s8
- An Act to amend an Ordinance to Incorporate Alberta College, 1956, Ch. 63, s2 (b, s6a of Ch. 25, 1904)
- An Act to exempt from taxation the Real and Personal Property of the Mennonite Conference of Alberta used by it for the Site of the Mennonite Bible Institute near Didsbury, Alberta, 1956, Ch. 70, s1.
- Condominium Act - Historical Resources Act s41(1) (property of The Alberta Historical Resources Foundation).

Collecting school boards - Note to reader

Under s165 of the *School Act* certain school boards have the right to levy and tax. Section 165 reads:

165(1) A collecting board

(a) has, for the purpose of imposing, collecting, compromising and refunding taxes, all the powers with respect to the imposition and collection of taxes that are vested in a municipality by the Municipal Taxation Act and the Tax Recovery Act, and

(b) has and may exercise all the powers and duties of a municipality under this Act and the Municipal Government Act, but only to the extent that the power is not being exercised in the district by any other public authority.

(2) A collecting board that exercises any of the powers given by subsection (1)(b) must

(a) prepare a separate budget in respect of those powers exercised,

(b) account separately for money received and expended for those purposes, and

(c) indicate in its tax notices the portion of its taxation, in mills, that is levied in respect of those powers exercised.

Under Part 1 of the *Municipal Taxation Act* (dealing with assessment) a municipality includes a collecting school district (s67 MTA).

The MTA has special provisions dealing with assessment for school purposes. Following s68 MTA, something along these lines may be needed:

(1) When, in accordance with the School Act, (property) is to be assessed for either public school or separate school purposes, the Alberta Municipal Assessment Corporation must accept a notice under Part 6, Division 2 of the School Act.

(2) The Alberta Municipal Assessment Corporation may from time to time require an owner of property to submit to it the notice referred to in subsection (1).

89 Repeal

The following Acts will likely be recommended for repeal:

(a) *Alberta Assessment Appeal Board Act*;

(b) *Municipalities Assessment and Equalization Act*;

(c) (industrial tax sections of the *Improvement Districts Act*);

(d) others to be reviewed. (See recommended MGA.)

90 Coming into force

This Act comes into force on a date or dates to be fixed by Proclamation.

MISCELLANEOUS NOTES:

1 The definition of "municipality" in this draft does not include a collecting school board. As there is only 1 collecting board in existence it is probably better to deal with this through an amendment to the *School Act* which says which powers the collecting board is to have by reference to the *Property Assessment Act*.

2 Something along the following lines may be needed in the *School Act*

— *A collecting school board may pass a resolution directing an assessor to prepare an assessment for business taxes raised for school purposes.*

3 Some rewriting of *School Act* provisions to cope with the repeal of various Acts and the likely elimination of equalized assessments will be needed.

4 The Municipal Statutes Review Committee recognizes that a number of changes to its recommended *Municipal Government Act* will be needed if this Act proceeds, including: changing the definition of "energy lines" to reflect the definition of "linear property"; adding provisions for assessments and appeals related to local improvements, revising the business tax provisions, and other proposed taxes and a number of other matters. These can best be dealt with once the Government has made its policy decisions.

SCHEDULE 1

Property that is exempt from valuation and assessment

Exemptions

(1) The following property is exempt from valuation and assessment

(a) a facility, works or system for

(i) the collection, treatment, movement or disposal of sanitary sewage, and

(ii) storm sewer drainage,

owned by the Crown in right of Canada, the Crown in right of Alberta, a municipality, or a regional municipal services commission, and the parcel of land, right of way or easement on which the facility, works or system is located;

(b) a facility, works or system for the storage, transmission, treatment, distribution or supply of water that is owned by the Crown in right of Canada, the Crown in right of Alberta, a municipality, or a regional municipal services commission, and the parcel of land, easement or right of way on which the facility, works or system is located;

(c) land and improvements owned by the Crown in right of Alberta in a municipal district, county, improvement district or special area that are not

(i) used or actively occupied by the Crown, or

(ii) occupied under an interest or right granted by the Crown;

(d) public roadways as defined in the *Planning Act*,[16] the road itself, and everything necessary to maintain the roadway, regulate road users and keep the roadway and the users safe;

(e) road allowances, unless they are occupied under a grazing lease, grazing licence or grazing permit;

(f) improvements, other than a farm residence, used for farming operations and located on farm property in a municipal district, county, improvement district or special area;

(g) linear property used exclusively for farming purposes;

(h) mines, minerals, oil and gas;

(i) growing crops.

(2) The following are exempt from valuation and assessment

(a) canals, dams, dykes, weirs, breakwaters, ditches, basins, reservoirs, cribs and embankments, and the parcels of land on which they are located;

(b) flood-gates, drains, tunnels, bridges, culverts, headworks, flumes, penstocks, aqueducts, devices and contrivances located at a dam and used in the operation of those installations, and the parcels of land on which they are located, when the purpose is exclusively for water conservation or flood control;

---

16 "public roadway" in the *Planning Act* means:

(i) in a city, town, new town, village or summer village, the right of way of all or any of the following:
(A) a local road,
(B) a service road,
(C) a street,
(D) an avenue, or
(E) a lane,
that is publicly used or intended for public use,
(ii) in a county, municipal district, improvement district or special area, the right of way of all or any of the following:
(A) a controlled street or rural road as defined in the Public Highways Development Act, or
(B) a service road or a land that is intended for public use,
(iii) a road, street or highway designated as a secondary road pursuant to the Public Highways Development Act, except those secondary roads numbered between 900 and 999,
and includes a public right of way on which no motor vehicle, as defined in the Motor Vehicle Administration Act, is permitted to operate;

(c) all those portions of installations referred to in clause (b) which are used in connection with water conservation or flood control and the parcels of land on which they are located, except any portion of the installation or land that is used for the generation or production of electric power;

(d) pipelines or works and transmission lines under construction unless they are capable of being used for the transmission of gas or oil or electricity or any other purpose.

SCHEDULE 2

Specially defined words

Definitions

"***assessed owner***" means

(a) the person who is named on a property valuation roll or supplementary property valuation roll as the assessed owner of property,[17] or

(b) the person who is named on a business assessment roll or supplementary business assessment as the assessed owner of property or a business;

"***assessed property***" means

(a) property valued in accordance with Part 1 or the regulations, or

(b) property assessed in accordance with a business assessment bylaw;

"***assessed value***" means the value given to property in accordance with Part 1 and the regulations;

"***Assessment Appeal Commission***" means the Alberta Assessment Appeal Commission established under Part 3, Division 2;

"***assessor***" means a person employed or contracted to perform the duties and responsibilities of an assessor under this Act;[18]

"***board of revision***" means a board of revision appointed by a council, or by agreement of 2 or more councils, under Part 3, Division 1;

"***business***" means

(a) a commercial, merchandising or industrial activity or undertaking,

(b) a profession, trade, occupation, calling or employment, and

17 Section 4 specifies who the "assessed owner" is.

18 Assessors could be full time employees of the municipality or hired on contract.

(c) an activity providing goods or services,

whether or not for profit and in whatever form the business is practised, including a co-operative or association of persons, but does not include farming on farm property;[19]

"***council***" has the same meaning as it has in the recommended *Municipal Government Act*;

"***farm property***" means

(a) farmland, being a parcel of land of at least one acre in size that is used for

(i) planting or growing trees, shrubs or sod, for sale,

(ii) raising or producing crops, livestock, pheasants or poultry, or

(iii) fur production or beekeeping,

which generates an income sufficient to maintain a livelihood, and

(b) buildings and structures in, on, over or under farmland, whether or not they would be transferred without special mention by a sale of the parcel of land on which they are located;

"***improvements***" includes

(a) buildings and structures in, on, over or under a parcel of land, whether or not they would be transferred without special mention by a sale of the parcel on which they are located, and everything fixed to or integrated in the building or structure;

(b) everything that forms an integral part of an operational unit[20] that is designed for or used in

(i) processing or manufacturing, or

(ii) the production of natural resources,

19 "farm property" is a defined term.

20 The Court of Queen's Bench decided that portal cranes fall within this definition (as do silos in a cement plant - see *British Columbia Forest Products Ltd.* v. *AAA Board* (1984)).

whether or not it would be transferred without special mention by a sale of the parcel of land on which it is located;

(c) everything that forms an integral part of an operational unit designed for or used in connection with the excavation or transportation of coal or oil sands, as defined in section 1(1)(n) of the *Oil Sands Conservation Act*,[21] whether or not the machinery or equipment would be transferred without special mention by a sale of the parcel of land on which it is located, but does not include machinery or equipment that is exempted by the regulations[22] made under section 11;

(d) a mobile unit, (being a vacation trailer, house trailer or relocatable trailer, or a structure), whether the unit is ordinarily equipped with wheels or not, when the unit is located on land owned by

(i) the owner of the unit, or

(ii) a person in the process of purchasing the unit,

but not

(iii) a mobile unit occupied by a genuine tourist, or

(iv) a mobile unit intended for vacation use while it is not occupied for any purpose;

(f) everything that forms an integral part of an operational unit designed for or used in transmitting or receiving communication signals for public resale, whether or not the unit would be transferred without special mention by a transfer of the land on which it is located;

(g) anything described in clauses (a) to (f) being erected, placed, integrated or fixed to land or a building or structure, whether or not it is complete and whether or not it is capable of being used for the purposes for which it is

21 The definition is:

> *(n) "oil sands" means*
> *(i) sands and other rock materials containing crude bitumen,*
> *(ii) the crude bitumen contained in those sands and other rock materials, and*
> *(iii) any other mineral substances, other than natural gas, in association with that crude bitumen or those sands and other rock materials referred to in subclauses (i) and (ii).*

22 The regulations are made by the Minister.

designed or intended when it is complete, but not any parts, components or constituents of property that have not been erected, placed, integrated or fixed;

"***land and improvements***" means a parcel of land[23] with the improvements that are in, on, over or under it, including farm property but not linear property;

"***linear property***"[24]

(a) means an estate, right or interest, exclusive or not, which crosses or runs along, in, on, over or under a parcel of land, a road allowance, or a public roadway as defined in the *Planning Act*, and that is used for a facility, works or system

(i) to provide a public utility as defined in the recommended *Municipal Government Act*,[25]

(ii) to convey energy, vapour or gas, liquid or solid material, or a telecommunication as defined in the *Telecommunication Act*,

(iii) to provide a system as defined in the *Telecommunications Act*,

(iv) to provide a railway line and related facilities, and

(v) to provide any other public benefit or convenience, and

23 "parcel of land" is a defined term.

24 This definition is intended to include pipelines, transmission lines, cable T.V., railways, etc.

25 "public utility" is defined in the recommended *Municipal Government Act* as:

> "public utility" means a system or works requiring a road, public place or watercourse for its construction, operation or maintenance, which provides, for public consumption, benefit, convenience or use,
>
> (a) water or steam;
> (b) sewage disposal;
> (c) public transportation;
> (d) irrigation;
> (e) natural gas;
> (f) electric power;
> (g) heat;
> (h) anything else specified by a council;

(b) includes

(i) the facility, works or system itself, buildings and structures, and everything necessary to generate, convey, transport, distribute, operate, maintain and regulate the facility, works or system, and keep it and its function safe, and

(ii) the area of land on which an oil or gas well site is located, the well itself, buildings and structures, and everything necessary to operate, maintain and regulate the well and keep it and its function safe,

but does not include other land and improvements;

"***Minister***" means the Minister of Municipal Affairs;

"***municipality***" has the same meaning as it has in the recommended *Municipal Government Act*;

"***parcel of land***" means

(a) the aggregate of the one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office,

(b) the aggregate of the one or more units described or referred to in a condominium plan registered in a land titles office,[26] and

(c) an area of unpatented land owned by the Crown in right of Canada or the Crown in right of Alberta that is the subject of a right or interest granted by either Crown,

but if a parcel of land described in clauses (a) to (c) is located in more than one municipality, each part of the parcel that falls within the boundaries of a municipality is considered to be a separate parcel of land;

26 Condominium plans are registered with the Land Titles Office in accordance with the *Condominium Property Act*.

"*property*" means

(a) land and improvements, and

(b) linear property.